

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA (RICHMOND)

In re) Case No. 08-35653-KRH
CIRCUIT CITY STORES, INC., et al.,)
Debtors.) August 16, 2017
2:03 PM
_____)

TRANSCRIPT OF HEARING ON

MOTION TO APPROVE (MOTION OF THE LIQUIDATING TRUSTEE FOR ENTRY
OF AN ORDER FURTHER EXTENDING TERM OF LIQUIDATING TRUST) FILED
BY LYNN L. TAVENNER OF TAVENNER & BERAN, PLC ON BEHALF OF
CIRCUIT CITY STORES, INC. LIQUIDATING TRUST. (TAVENNER, LYNN)
(DOCKET NO. 14098)

NOTICE AND OBJECTION TO CLAIM OF COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TAXATION LIQUIDATING TRUST'S OBJECTION TO CLAIM
NOS. 12898 AND 14636 FILED BY THE COMMONWEALTH OF VIRGINIA
DEPARTMENT OF TAXATION (DOCKET NO. 10070)

NOTICE AND OBJECTION TO CLAIM - SIXTH OMNIBUS OBJECTION TO
CLAIMS (DISALLOWANCE OF CERTAIN INVALID UNLIQUIDATED CLAIMS AND
FIXING OF CERTAIN UNLIQUIDATED CLAIMS) (DOCKET NO. 10043)

NOTICE AND OBJECTION TO CLAIM - LIQUIDATING TRUST'S TWENTY-
THIRD OMNIBUS OBJECTION TO CLAIMS (DISALLOWANCE OF CERTAIN
INVALID UNLIQUIDATED CLAIMS AND FIXING OF CERTAIN UNLIQUIDATED
CLAIMS FILED BY LYNN L. TAVENNER OF TAVENNER & BERAN, PLC ON
BEHALF OF CIRCUIT CITY STORES, INC. LIQUIDATING TRUST. (DOCKET
NO. 11388)

BEFORE THE HONORABLE KEVIN R. HUENNEKENS
UNITED STATES BANKRUPTCY JUDGE

1 APPEARANCES:

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1 THE CLERK: All right. The court is now in session.
2 Please be seated and come to order.

3 THE CLERK: Circuit City Stores, Incorporated, items 1
4 through 4 on proposed agenda.

5 MR. CAINE: Good afternoon, Your Honor.

6 THE COURT: Good afternoon, Mr. Caine.

7 MR. CAINE: Andrew Caine, Pachulski Stang Ziehl &
8 Jones, for the Circuit City Stores, Inc. Liquidating Trust. At
9 counsel table with me are my cocounsel, Lynn Tavenner, and Jeff
10 McDonald from the Trust.

11 THE COURT: All right. Very good.

12 MR. CAINE: Four items, Your Honor. The first is the
13 Trust's motion for an order extending the terms of the
14 Liquidating Trust for an additional year.

15 The primary grounds for this motion, Your Honor,
16 concern the remaining price fixing litigation in which the
17 Trust is a plaintiff, and for which we are hopeful that some
18 substantial recoveries that will be meaningful to creditors
19 may, in fact, come in.

20 There are two primary ones, the optical disc drive
21 litigation, in which discovery is complete. It is set for
22 trial in San Francisco in February of 2018. The other matter
23 is the lithium ion battery class action, which does not have a
24 trial date yet but in which various proceedings are going on
25 and the parties are talking about resolution.

1 We're hopeful that those matters can be resolved
2 within the year that the trustee is asking for and that we can
3 generate some meaningful sums for creditors.

4 There are other matters that the Trust has to deal
5 with, including recovery of the Old Republic excess collateral,
6 but the primary driver for this motion is the antitrust
7 litigation. And because the trustee believes that this is a
8 valuable investment of time to accomplish some recoveries, he
9 asked that the Court extend the life of the Trust for one more
10 year with the right, if needed, to ask for more.

11 THE COURT: I was worried about that last statement.
12 The Court is -- this is deferred to the judgment of the
13 trustee, and will grant the motion to extend the term of the
14 Liquidating Trust. And so the trustee being much closer to
15 that litigation than I am, and so that will be approved.

16 MR. CAINE: Thank you, Your Honor. We also made an
17 order.

18 THE COURT: Yes, please.

19 MR. CAINE: Item number 2, Your Honor, is the only
20 remaining claim objection. It is the Trust's objection to the
21 tax claim of Virginia Commonwealth Department of Revenue.

22 There is nothing new to report. We had hoped that the
23 Virginia Supreme Court decision in the Kohl's matter on the
24 same legal issue would have come down by now. In our
25 discussions with the Commonwealth they've indicated that

1 they're not going to respond to our settlement offer till that
2 decision is rendered, and we are just waiting for that to
3 happen. We were hopeful that it would be in August, and we're
4 informed that they generally issue those on Thursday, so every
5 Thursday we're, sort of, looking. But we ask that this one be
6 continued until the September 20th omnibus hearing, at which
7 time we'll give you a further report.

8 THE COURT: All right. It'll be continued.

9 MR. CAINE: Thank you, Your Honor. Items 3 and 4 are
10 the Trust's sixth and twenty-third omnibus objections to
11 claims. As a result of the Trust's stipulation with Old
12 Republic, upon which you signed an order recently, those claims
13 are now all withdrawn, so the sixth and twenty-third omnibus
14 objections are now complete as to all claims to which they were
15 addressed, and there is no further reason to maintain these
16 objections on the docket.

17 THE COURT: All right. But you're continuing your
18 discussions with Old Republic.

19 MR. CAINE: Yes, but not related to their outstanding
20 claims.

21 THE COURT: Right.

22 MR. CAINE: The discussions at this point are limited
23 to our getting money from them for excess collateral.

24 THE COURT: Very good.

25 MR. CAINE: Yes. I'm hopeful to conclude those in the

1 near term.

2 THE COURT: Excellent.

3 MR. CAINE: And that is the docket, unless Your Honor
4 has any other questions.

5 THE COURT: I do not. I had understood that Ms.
6 Tavenner graciously offered to come in and explain the first
7 one further. I don't think I need that. I think I understand
8 what's going on. Unless you want to come in and talk about
9 whether the Dodgers can sustain this effort this year, we can
10 be done.

11 MR. CAINE: I always like to talk you about that,
12 but --

13 Of course there are the details of those antitrust
14 matters we can't discuss on the record.

15 THE COURT: I understand.

16 MR. CAINE: So if Your Honor --

17 THE COURT: You don't need to.

18 MR. CAINE: -- wanted more information, we would be
19 happy to give that to you.

20 THE COURT: All right. No, I, as I said, I've got
21 great confidence in the judgment of the trustee, and that's
22 what I'm going to defer to. Okay?

23 MR. CAINE: Thank you, Your Honor.

24 THE COURT: All right. Thank you. Thank you, all.

25 MS. TAVENNER: Thank you.

Colloquy

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1 THE COURT: All right. We'll be adjourned.

2 THE CLERK: All rise. The court is now adjourned.

3 (Whereupon these proceedings were concluded at 2:09 PM)

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C E R T I F I C A T I O N

I, Hana Copperman, the court approved transcriber, do
hereby certify the foregoing is a true and correct transcript
from the official electronic sound recording of the proceedings
in the above-entitled matter.

Hana Copperman

August 18, 2017

HANA COPPERMAN

DATE

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